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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,785	06/14/2000	Thomas A. Shreiner	Ap32438.70121	7746

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BAKER & BOTTS  
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NEW YORK, NY 10112

EXAMINER
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NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/593,785

Applicant(s)

SHREINER ET AL.

Examiner

Chi Q Nguyen

Art Unit

3635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 8-10, 13-16, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-10, 13-16, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 9-10, and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in response to the applicant's amendment filed on 10/6/03. Since the applicant cancelled claims 6, 7, 11, 12, 17, and 18 in the previous amendment filed on 1/24/03 therefore these claims can not be reinstated even though the generic claims have been allowed. However, the applicant could further file these claims as new claims.

#### ***Claim Objections***

Claims 1 and 13 are objected to because of the depending claims should start with "the expansion joint cover of claim". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 13, 14-16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hallsten (US 5,911,662).

Hallsten teaches a tank cover structure comprising a pair of continuous elongated frames 34, an elongated cover 30 is generally rectangular 32 arranged side-by-side to form the cover. The panels 32 are preferable constructed from a plurality of same side or same cross section planks 36 parallel arranged edge-to-edge and aligned along the length of the cover and in transverse direction to the frame members (figs. 1, 6, 8, 25, cols. 5-6), the rubber-like seal 368, also serving as a structural supporting

member 34 for the deck assembly (col. 13, lines 63-67, col. 14, lines 7-9). As shown in fig. 6, each of the frame members 34 having support groove, which comprising upper flange U, a lower flange L (see attached drawing fig. 6) thus capable for the formed members or planks 36 of the cover 30 slide into and engaging tongue to groove mechanism (col. 6, line 49).

With regard to claims 8, 19, Hallsten shows in fig. 3A, each of the planks 36 has corrugations.

### ***Allowable Subject Matter***

Claims 9-10, and 20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fail to teach or render obvious the claimed combination including the formed member has a plurality of transversely spaced-apart planar upper and lower web portions, and ribs joining each edge upper web portion to an edge of each lower web portion (claims 9-10, 20) as specifically set forth in the claims.

### ***Response to Arguments***

Applicant's arguments filed 10/14/03 that the Hallsten reference does not include a pair of frames adapted to be secured to a building member, no elongated planar supporting surfaces on the frames, and does not span an expansion gap between building members have been fully considered but they are not persuasive because: The limitation of the building member is not positively claimed; the frame members 34 taught by Hallsten having supporting surfaces as noted by U and L and it capable to cover an

expansion join (see attached drawing fig. 6); Furthermore, the applicant's arguing limitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

1113.



CQN

12/17/03



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600

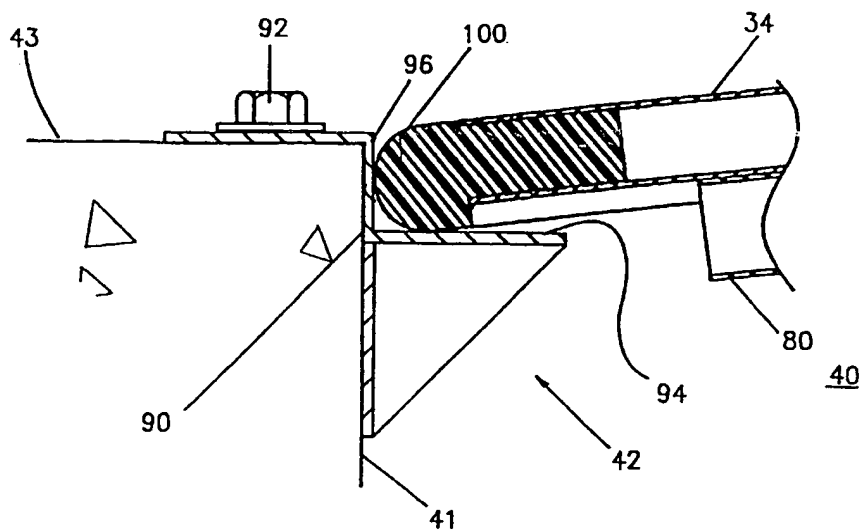


Fig. 5

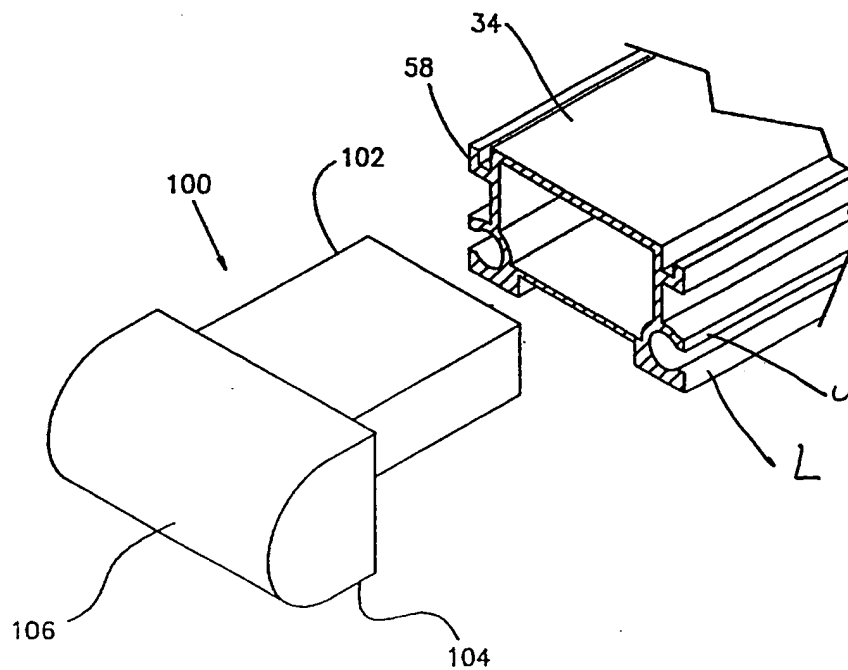


Fig. 6